

EXHIBIT

DATE

2/11/13

HB

281

HB 281 – STATUTE OF LIMITATIONS

1. Reducing the SOL from three years to two will not reduce the number of meritorious claims. It will, however, reduce the number of non-meritorious claims. I base this conclusion on claims experience. For example, in 2010 and 2011 BC had 11 malpractice claims filed against it, all being filed in the 35th month of SOL. BC received a 6-0 favorable vote at the Medical Legal Panel in all 11 cases, meaning the standard of care had been met in each case. The average cost to defend a case up to and including the Medical Legal Panel is \$20,000. Four of these cases went on to lawsuit. BC did not pay any indemnity in two of these cases, and paid a nuisance value in the other two. Yet, it cost over \$150,000 to defend these four cases. The total cost: \$450,000 to defend 11 non-meritorious cases, all of which had been filed in the last month of a 3-year SOL.
2. A shorter SOL will benefit both sides. The shorter the time between the event and a claim will produce more accurate discovery as memories of all parties will be fresher and pertinent documents more readily accessible. The longer the time between the event and a claim the more difficult it is to collect evidence, which drives up the cost of a claim.
3. Claims filed in the third year of the SOL are typically filed either *pro se* or by attorneys who do not specialize in medical malpractice law. This is largely due to the fact that claimants have shopped their claim to experienced medical malpractice attorneys who have declined to take the case (based on requests for medical records). As I just mentioned, these are the types of claims that lack merit but yet produce significant legal costs to defend.
4. A study conducted by The Doctors Company, the largest insurer of physicians, indicates that doctors spend an average of 50.7 months of a 40-year career involved in medical malpractice cases. Reducing the SOL will reduce the amount of time physicians will be involved in defending claims. In addition, the amount of emotional distress physicians and other providers suffer as a result of being named in a claim or lawsuit will be decreased.
5. Insurance companies and insureds will be able to close claim files sooner with a two-year SOL. This will produce lower actuarial reserve projections resulting in lower professional liability premiums.
6. Currently 31 states have a two-year SOL, including the neighboring states of Idaho, North Dakota, South Dakota and Wyoming. Colorado and Oregon also have 2-year SOL's and California has only a one-year SOL. I believe the reason that 66% of the states have 2-year or less SOL's is that claims are resolved faster to the benefit of both plaintiffs and defendants.